

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1940 OF 2022

ISHWARSINGH CHUNNUSINGH
VERSUS
THE CHIEF EXECUTIVE OFFICER AND ANOTHER

Mr.M.D.Godhamgaonkar, Advocate for the petitioner.

(CORAM : RAVINDRA V. GHUGE , J.)

DATE : MARCH 15, 2022

PER COURT :

1. By this petition, the petitioner seeks to challenge the judgment and order dated 07.05.2021 by which his Complaint (ULP) No.72/2014 seeking permanency as a Driver with the Zilla Parishad, has been dismissed.

2. The learned Advocate for the petitioner has strenuously criticized the impugned judgment. He relies upon the 7 grounds formulated in the memo of the petition to support his contention that the respondent has extracted work as a Driver from the petitioner, for years together and his case would be covered by Item 6 of Schedule IV of the MRTU and PULP Act, 1971, which reads as under :-

"6. to employ employees as "badlis", casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent employees."

3. He further submits that the petitioner was a multifaceted employee who used to work as a helper, to carry out repairs on old pump sets, as a Mechanic and used to also drive a truck, as a driver. He was not promoted to the position of a Driver and he continued to draw his salary as a Helper. He was having a driving license for heavy motor vehicles (HMV) from May 1981 till May 1984. The reasons assigned by the Industrial Court are unsustainable and the same deserve to be quashed and set aside.

4. In the light of the strenuous submissions of the learned Advocate for the petitioner, I have perused the record available. In his cross-examination, he has stated that he had a driving license for HMV from May 1981 to May 1984. He did not have a license for LMV. Though he had not been appointed as a vehicle driver, he had performed his duties in the said capacity. He superannuated in 2016.

5. The Zilla Parishad led evidence through one witness who has

stated in his cross examination that the petitioner had not tendered the copy of the license with the Zilla Parishad. He was never appointed as a Vehicle Driver. He never worked as a Vehicle Driver and was only assisting the regular driver as a Helper. The vehicle used to carry pump motors and the petitioner used to accompany the vehicle as a Helper.

6. It is therefore obvious from the record available that whether the petitioner had a driving license or not, there was no evidence placed before the Court to indicate that he was actually working as a Driver and not as a Helper. The record also does not indicate that he was deputed as a Driver. Documents like Attendance Register and Leave Applications of the petitioner were also placed on record and they do not indicate that he was working or officiating as a Driver.

7. In view of the above, I do not find any merit in the petition and the same is therefore dismissed.

(RAVINDRA V. GHUGE, J.)